

**DR. BYRON BLAGBURN**

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE MIDDLE DISTRICT OF ALABAMA  
3                   EASTERN DIVISION

**ORIGINAL**

5 CHRISTOPHER B. EILAND, DVM, MS,

6 Plaintiff,

7 VS. FILE NO. 2005-CV-459-VPM

9 DR. BYRON L. BLAGBURN, individually  
and in his official capacity, DR.  
10 CHARLES HENDRIX, individually and in  
his official capacity, DR. JOSEPH JANICKI,  
11 individually and in his official capacity,  
DR. STEPHEN McFARLAND, individually and in  
his official capacity, DR. ED RICHARDSON,  
12 in his official capacity as President of  
Auburn University, and DR. LAUREN WOLFE,  
13 individually and in his official capacity,

14 Defendants.

\* \* \* \*

16 DEPOSITION OF BYRON L. BLAGBURN, MS, PhD,  
17 taken on behalf of the Plaintiff, pursuant to the  
18 stipulations set forth herein, before Jeana S.  
19 Boggs, Certified Court Reporter and Notary Public,  
20 at the law offices of Kathryn Dickey, LLC, 322  
21 Alabama Street, Suite B, Montgomery, Alabama,  
22 commencing at approximately 1:32 p.m., Monday, June  
23 12, 2006.

1 the College of Veterinary Medicine. So, I  
2 then moved to Urbana-Champaign and spent  
3 four years earning a doctorate in veterinary  
4 science with a major in parasitology. I  
5 received that in 1982.

6 Q Okay. And you answered probably my next  
7 question, but are you considered an expert  
8 in parasitology?

9 A By traditional definitions, yes, veterinary  
10 parasitology. Certainly parasitology is a  
11 broad field. It involves human disease,  
12 exotic animal disease, and domestic animal  
13 disease. And I think when it comes to  
14 domestic and companion animal, the answer  
15 would be yes.

16 Q Okay. After graduating from school, what  
17 was your first employment position?

18 Auburn University.

18 Q And when did you start there?

22 A March 1 1982

11. Q. And what is your current position?

What is your current position title?

1 A Distinguished university professor,  
2 Department of Pathobiology, College of  
3 Veterinary Medicine.

4 Q Okay. Now, how do you get the title of  
5 distinguished?

6 A Well, you're nominated by your department  
7 head, your dean, your qualifications, the  
8 impacts that you've had in your field, both  
9 nationally and internationally, are assisted  
10 by a committee of your peers at the college  
11 level. And after deliberation, examination  
12 of your documents, the decision is made to  
13 either award you one of the distinguished  
14 chairs or not to award you. And I was  
15 fortunate enough to have been awarded one.

16 Q And how long have you held that position?

17 A Since 1999.

18 Q What are your responsibilities?

19 A In the College of Veterinary Medicine, most  
20 of us -- and I'll tell you what mine are  
21 specifically in just a minute. Most of us  
22 are involved in one of four disciplines:  
23 Teaching, research, diagnostic services or

1 Q Okay. Do you serve as a major professor for  
2 graduate students?

3 A I do.

4 Q Tell me about your responsibilities as a  
5 major professor.

6 A Well, a major professor is essentially the  
7 mentor for the student. They help the  
8 student identify an advisory committee,  
9 which is a group of individuals, which  
10 together with the major professor, will  
11 advise that student on his or her course  
12 work, his or her research, help them design  
13 it and monitor their progress. But  
14 ultimately, principally, it's the  
15 responsibility of the major professor to  
16 provide guidance for the committee and to  
17 deal with any issues or problems that arise  
18 and to solve those problems.

19 Q Okay.

20 A And that might relate to academic problems.  
21 It might relate to other issues that involve  
22 student's matriculation or progress through  
23 the program.

1 Q About how many students do you serve as  
2 their major professor in a year?  
3 A Well, of course, programs generally take  
4 three -- two to four years, depending on  
5 whether they are Master's program or PhD  
6 programs. And so, it's possible that  
7 programs could overlap. And so, I could be  
8 supervising two master students and one PhD  
9 student at the same time. A PhD student can  
10 graduate. A Master's student could  
11 graduate, and we could be in between  
12 students. There could be a period of time  
13 when I could be supervising none.

14 So, the answer is that it would  
15 depend on where those students are in their  
16 individual programs and at what point in  
17 time you ask me.

18 Q At one time, were you the major professor  
19 for Doctor Chris Eiland?

20 A I was.

21 Q And what period of time were you serving as  
22 his major professor?

23 A Well, there were actually two periods. I

1       served as his mentor and major professor  
2       during his Master's program, which --  
3       Actually, Chris was involved in sort of a  
4       joint matriculation program in which he was  
5       enrolled in the professional degree program,  
6       and at the same time enrolled in the  
7       graduate school. Although, keep in mind  
8       that there will be times when he's not doing  
9       both. Sometimes he will be doing both.

10                   So, I guess, beginning maybe  
11                   sometime during his sophomore year as a  
12                   professional student, we discussed his  
13                   enrollment as a Master's candidate,  
14                   discussed his research topics. And so,  
15                   without giving you a definite date when that  
16                   started, unless I went back to the program  
17                   in biomedical sciences that would give us  
18                   the chronology, I would say from -- you  
19                   graduated in -- he graduated in 2003 as a  
20                   veterinarian.

21                   So, I would say 2001 through, I  
22                   think, December of 2003. And that would  
23                   have encompassed his Master's program as

1       well as a short period of time when I  
2       advised him during his doctorate program.

3   Q    Okay. What type of research projects did  
4       Doctor Eiland work on for you when you were  
5       his major professor?

6   A    Well, of course, his responsibility was to  
7       research feline heartworm infection disease,  
8       and our interest was clarifying diagnosis,  
9       correlating diagnosis with disease, and  
10      trying to better characterize the nature of  
11       heartworm disease in cats. That was the  
12       subject of his Master's thesis.

13               It wasn't at all unlikely that  
14       Doctor Eiland might have been involved in  
15       other projects that were ongoing in the  
16       laboratory with other collaborating  
17       pharmaceutical companies.

18               So, it depends on whether your  
19       question is what in every instance was he  
20       involved in, or what was he involved in that  
21       related only to his graduate work.

22   Q    Primarily talking about his graduate work.

23   A    Okay. So, his Master's thesis was, as I

1       described, trying to clarify diagnosis and  
2       disease characteristics of feline heartworm  
3       disease. And although we had not nailed it  
4       down in detail entirely for his PhD program,  
5       we presumed in my discussions with Chris and  
6       with other members who were likely to serve  
7       on his committee or who were involved in the  
8       past, that his doctoral disorientation would  
9       be a continuation in some sort of work that  
10      he had done as a Master's candidate.

11     Q     Did he do an excess amount of research  
12        during his Master's program that would have  
13        carried over to the PhD program?

14     A     He did some work that certainly wasn't  
15        included in any detail in his Master's  
16        thesis. We had talked about perhaps using  
17        some of that additional work in pursuit of  
18        his doctoral degree. But until that  
19        research and its details were identified in  
20        a research proposal, submitted to the  
21        committee, and approved, it's nothing more  
22        than speculation and discussion. Do you see  
23        what I mean? The committee has to approve

1       whatever research you're going to do for  
2       your, in this case, your doctoral degree.

3   Q    What research did he do -- All right. You  
4       said heartworm?

5   A    Uh-huh (positive response).

6   Q    Feline heartworm research --

7   A    Yes, ma'am.

8   Q    -- for his Master's degree?

9   A    Uh-huh (positive response).

10   Q   Who were members of his -- Was there an  
11       advisory committee at the Master's level?

12   A   There was. As I recall, it was myself,  
13       Doctor Jenny Spencer, Doctor Joe Newton, and  
14       I think we added Doctor Ray Dillon, Allen R.  
15       Dillon, subsequently.

16   Q   All right. Were those members going to  
17       continue on as his advisers in the PhD  
18       program?

19   A   Not necessarily. We had not identified  
20       those individuals definitively. And it's  
21       not uncommon at all for those who would  
22       advise during the doctoral portion of a  
23       program or research or career to be

1                   different than those that would advise  
2                   during the Master's. And the reason for  
3                   that is that if we did elect to pursue other  
4                   areas or if his research took turns that we  
5                   had not discussed yet or that we felt that  
6                   would be more productive, then it would be  
7                   wise, prudent, to include persons who were  
8                   experts in those areas who could better  
9                   advise us on those components of the  
10                  research.

11                  Q        During the short time that Doctor Eiland was  
12                  enrolled in the PhD program, had his  
13                  research at that time continued from his  
14                  Master's, or was there a change?

15                  A        Well, I'm not aware that we had decided in  
16                  any detail what we were going to do. As you  
17                  had alluded to or mentioned earlier, Doctor  
18                  Eiland and I had certainly talked about  
19                  continuing and using some of the additional  
20                  data that we had not analyzed thoroughly and  
21                  pursue it further. But until the committee  
22                  is formed and until the proposal is written  
23                  and signed off on by the PhD advisory

1 topic and to deal with specific issues. A  
2 committee member might say, "On page eight,  
3 paragraph two, you mentioned something  
4 that -- after having read it a second time,  
5 I'm not so sure that you have evidence to  
6 support that."

7 And then he would make a note --  
8 Doctor Eiland would make a note, and then we  
9 would make a decision about whether to  
10 change it or leave it. And you mentioned  
11 what role of the major professor is. The  
12 role of the major professor is to oversee  
13 that process and to make a decision when  
14 there's disagreement between Doctor Eiland  
15 and a committee member, between two  
16 committee members. Someone has to take  
17 charge and manage the situation. That's the  
18 role of the major professor.

1                   are present in the feces in this case.

2   Q    Were there deficiencies that needed to be  
3                   addressed?

4   A    In Chris's Master's thesis?

5   Q    Right.

6   A    No. Actually the committee was quite happy  
7                   with Doctor Eiland's performance in that  
8                   Master's thesis.

9   Q    What members were in attendance for that?

10   A   All of those members were in attendance.

11   Q    Okay. Do you remember telling that  
12                   committee at that time that there was a  
13                   possibility that they would be asked to  
14                   serve as his advisory committee for his PhD  
15                   program?

16   A    We may have discussed -- The answer to your  
17                   question is, no, I do not remember  
18                   specifically saying that, but I'm not  
19                   denying that I didn't say it. What we may  
20                   have talked about was Doctor Eiland has some  
21                   desire to continue in the program. We --  
22                   We, at least at this point, may pursue  
23                   certain avenues that either were pursued,

1 practice.

2 So, if and when and under what  
3 circumstances Chris and I discussed that, I  
4 would not have discouraged him from pursuing  
5 it. Because during his Master's program, he  
6 had performed certainly acceptably, and all  
7 committees signed off on his work. His  
8 course work, at least to the extent that I  
9 was familiar with it, was well done. I  
10 didn't have any problems with it.

11 So, to discuss a continuation  
12 wouldn't be out of the ordinary at all under  
13 those situations -- under that situation.

14 Q What alternative employment paths or  
15 professional paths did he discuss with you?

16 A Well, I think -- I think Chris had mentioned  
17 an interest in the pharmaceutical industry.  
18 I had tried on a couple of occasions to --  
19 after I had seen a couple of openings, to  
20 contact individuals and had encouraged --  
21 The way these things usually work is their  
22 openings are discussed -- their openings are  
23 posted on their web sites usually. And I

would ask Chris, "Go see if there's anything  
that you like and that interests you." And  
then the process of application is via the  
Internet. I said, "It always helps if you  
have someone that you know, and I know all  
of them." And I said, "If there's any way  
that I can help, I would be happy to talk to  
them. If you have a specific position that  
you're interested in, and if there's someone  
that I can talk to that I know, I would  
certainly be happy to do that."

12 Q If a student at Auburn University gets his  
13 Master's and then his -- what is it -- DV --  
14 MR. KNIGHT: DVM.

15 Q -- M? And then a PhD, does that improve his  
16 marketability with a pharmaceutical company?

17 A It could. It could very well do that. A  
18 lot of it depends on the position to which  
19 he's applying. Positions in professional  
20 services, which is a segment of our  
21 industry, pharmaceutical industry in which  
22 veterinarians actually oversee their field  
23 veterinarians, that would not be a

1 study. I'm not aware. I've not seen a  
2 record of a plan of study that a committee  
3 which had not been based on what I'm  
4 familiar with decided upon and signed. I  
5 have no such document. We may have talked  
6 about additional course work, or we may have  
7 sat down, and probably did, since he had  
8 enrolled in courses in the fall of 2003, and  
9 probably did talk about course work.

10 But to tell you a bit about how  
11 this works, the graduate school has made  
12 every attempt to encourage mentors, major  
13 professors and candidates to identify  
14 committees as soon as possible, to identify  
15 course work as soon as possible. But  
16 oftentimes, probably more often than not,  
17 that doesn't necessarily happen, you know,  
18 during the first few months, sometimes  
19 during the first six months of a candidate's  
20 program. Certainly I would be a proponent  
21 of doing it as early as possible. But it's  
22 not at all unusual for it not to be  
23 submitted and signed on, decided upon, and

1                   placed in the file two or three months into  
2                   a program officially.

3   Q    How many months was he into this program?  
4                   Do you remember? I know this is December,  
5                   and I'm not sure when the quarter started.

6   A    The quarter starts August 15th now. So,  
7                   you're talking about four months.

8   Q    So, after four months, you hadn't even  
9                   started a plan of study?

10   A    No. We had not drafted a plan of study. We  
11                   had not decided on a committee yet at that  
12                   point. And, again, that's not at all  
13                   unusual.

14   Q    At what point does that usually take place?

15   A    Well, it depends. Some candidates who have  
16                   a very, very good idea of what they want to  
17                   do and have decided on their research topic  
18                   and have a good idea of supportive course  
19                   work that would be necessary, or if we, at  
20                   this point, would have been knowledge of  
21                   what supportive course work was necessary,  
22                   we could do it right away. What you have to  
23                   remember is -- I mean, what you should

1 say, members of the Master's committee?

2 A What do you mean by "know more about"?

3 Q I'm just repeating what you just said, that  
4 I think you testified that whoever is in  
5 charge or the major professor plans or  
6 drafts the plan of study because that's the  
7 person that is in the position of knowing  
8 more about the candidate, the PhD candidate.

9 MR. KNIGHT: Object to the form. I

10 think that's a

11 mischaracterization --

12 MS. DICKEY: Okay.

13 MR. KNIGHT: Yeah, I think that  
14 mischaracterizes his testimony.

15 A There may be members of the committee who  
16 perhaps could have talked with Doctor Eiland  
17 at one time or another about one particular  
18 goal or aspiration that he had more so than  
19 me. So, there may be members of the  
20 committee who maybe know more about what he  
21 wants to do or at least what his latest take  
22 on what he wants to do more than me.

23 But I wouldn't disagree with you.

1       deep. And a molecular biologist on the  
2       committee knowledge might be a mile deep and  
3       an inch wide, if you see what I mean.

4       Q       I do. How many other students besides  
5       Doctor Eiland has shown an interest in  
6       parasitology for the PhD program?

7       A       Over the course of my career, recently?

8       Q       Let's say in the last ten years.

9       A       Oh, gosh. If I would have known you would  
10      have asked that question, I would have  
11      brought my vitae and could have given you  
12      their names and when they started and when  
13      they applied. And there's always a number  
14      of students who apply.

15      Q       Let me modify the question. It might make  
16      it easier. After receiving a DVM, how many  
17      students have you had who were interested in  
18      getting a PhD after their DVM?

19      A       Or a Master's or a PhD or just a PhD?

20      Q       PhD.

21      A       I can't recall a single one; but if we were  
22      to list those students at Auburn University  
23      in the last ten years who fell into that

1 category, there would be very few too.  
2 We've had some difficulty in recruiting  
3 veterinarians into PhD programs. And by  
4 "we," I mean, Auburn University's College of  
5 Veterinary Medicine because -- I'll offer a  
6 variety of reasons. Oftentimes, graduate  
7 veterinarians want to practice. They want  
8 to hone those skills. They've been going to  
9 school for years. They want to get out  
10 there and use, that many have debt. We do  
11 have a few, one or two, at the college right  
12 now that are pursuing a PhD immediately  
13 after getting their DVM. But when you  
14 consider, you know, over the last five years  
15 that we've graduated, you know, almost five  
16 hundred students, the number that do that is  
17 really very few.

18 Q We talked earlier about research that Doctor  
19 Eiland did while he was a student, both for  
20 the Master's program and the PhD. What  
21 happens to that research when a student  
22 leaves the university?

23 A Well, historically, I think the policy of

1           they're help in interpretation of the  
2           results or conduct of statistics or  
3           preparation of tables.

4           I mean, the practice of science is  
5           different in different laboratories. Some  
6           laboratories, if a person had lunch with  
7           you, they might be a collaborating author.  
8           In other laboratories, it's a bit more  
9           demanding. So, it just depends.

10          Q      Explain the process used at Auburn  
11           University for selecting a major professor.

12          A      Well, normally, it would depend on the  
13           application process. If the applicant was  
14           unbeknownst to us and applied via the  
15           Internet or simply made inquiries to the  
16           college but had an interest in one  
17           discipline or another, that individual might  
18           be given the names of persons to talk to.  
19           If that person enrolled in the college -- or  
20           enrolled in the graduate school and was  
21           accepted because of prior record -- and  
22           we've had students, for example, who came to  
23           us from premiere institutions with graduate

1       you become Doctor Eiland's major professor?  
2       A    Uh-huh (positive response).  And he and I --  
3            because he was a student assistant, because  
4            he had an interest in parasitology, I  
5            decided that -- well, let's go ahead and try  
6            to do a Master's.  Let's see how well this  
7            works.  And in my program, I like to require  
8            that students do Master's.  Some program  
9            mentors will take students on for PhDs  
10           without a Master's.  But my decision has  
11           always been that that can be unwise because  
12           the Master's gives you some idea of how well  
13           they'll perform at a level that perhaps is  
14           not as complex and is not as stressful.

15                   PhD is a different program  
16                   entirely.  It requires more independence.  
17                   It requires more independent conception.  It  
18                   requires more work.  It requires more  
19                   intense work and more vast work oftentimes.

20                   So, my feeling is that a Master's  
21                   degree allows me to gauge a student's  
22                   performance and then make a decision whether  
23                   or not to -- they might be an acceptable

happens, it certainly can delay their  
progress.

3 Q Okay.

4 (At which time, a recess was  
5 taken.)

6 Q When did you first become aware of Doctor  
7 Eiland's interest in parasitology?

8 A You know, I really don't know. It's been --  
9 Chris worked as a student assistant for us  
10 for a number of years. And my guess is that  
11 it was probably brought up sometime during  
12 his -- during his tenure as a student  
13 assistant even before he got into veterinary  
14 school, but I couldn't tell you exactly when  
15 that was.

16 Q Were you one of his professors in veterinary  
17 school?

18 A I was.

19 Q Did you have an opportunity to form an  
20 opinion of Doctor Eiland as a student?

21 A As a professional student. Well, you'll  
22 have to keep in mind that I didn't interact  
23 with Chris any more than any other

1 Q Do you know of any positions of honor that  
2 Chris Eiland held while he was a student?

3 A I don't -- I don't recall any. I'm not  
4 saying that at one time or another I might  
5 not have been aware if he participated in  
6 this particular element of the professional  
7 degree program or not; but at this point, I  
8 don't recall anything specifically.

9 Q Okay.

10 A Excuse me. Now, were you talking about,  
11 like, offices held?

12 Q Yes.

13 A Yeah, I was aware that he was -- he was the  
14 class president for the student. Yes,  
15 ma'am, I was aware of that.

16 Q And when was that?

17 A Well, I was aware that he was class  
18 president when he was taking my course.  
19 Now, he may have been class president prior  
20 to that. He may have been class president  
21 after that. But like I said, my  
22 interactions with Chris are no more, no less  
23 than any other student when they're in my

1 course.

2 So, you tend to be tuned in, if  
3 you know what I mean, to what's going on  
4 with a particular class and individuals in  
5 that class while you're teaching them during  
6 the year that you're teaching them. Then  
7 they move on to the next year, even the next  
8 semester. When we're done, your daily  
9 interactions with them fall off.

10 Q Okay. Did you recommend to Chris Eiland  
11 that he continue his education beyond the  
12 DVM program at Auburn University?

13 A I may have.

14 Q If you did, why would you have done that?

15 A Well, a good bit of it probably had to do  
16 with the fact that he had approached me and  
17 had expressed an interest and had asked me,  
18 "I have an interest. Do you think it's  
19 something that I should do or could do?  
20 Would it benefit me?" And my response would  
21 have been the same as it was a minute ago:  
22 "Could. And if you have an interest in  
23 parasitology, I'll certainly do everything I

1 can to help you pursue it."

2 Q Did you have discussions with Chris Eiland  
3 about the possibility of teaching at Auburn  
4 University at some point in the future?

5 A No. I might have said something like, and  
6 perhaps did, that Doctor Hendrix and I will  
7 be retiring soon, you know. There will be  
8 available positions. But certainly it would  
9 not have been my intention to either ensure  
10 or to imply that he or anyone else could  
11 simply move in or occupy those positions  
12 without competing. I mean, I wouldn't have  
13 said that.

14 Q But you could have suggested that that might  
15 be a possibility for him?

16 A I suppose I could suggest it. It would be a  
17 possibility for Heather too. It could be a  
18 possibility for any other graduate student.

19 Q But have you discussed it with Heather?

20 A Oh, of course. We've discussed -- not  
21 particularly my position, but we've  
22 discussed any number of positions at  
23 academic institutions when person's --

1 Q How long did he work in the lab?

2 A Well, like I said, there were probably two  
3 or three years prior to his acceptance into  
4 veterinary school, and then, maybe,  
5 intermittently during his period of  
6 enrollment in the professional degree  
7 program. And then, maybe, intermittently  
8 during the conduct of his Master's. His  
9 project actually involved a lot of  
10 collection off site.

11 So, he did much of his work at the  
12 shelter and then would bring his specimens  
13 back. Oftentimes at later hours because,  
14 obviously, he was a student and had to do  
15 some of these things when he had the time to  
16 do them. And sometimes that would be  
17 evenings and weekends when the others  
18 wouldn't be around; not all the time, but  
19 sometimes.

20 Q Was there a certain number of hours that he  
21 was required to work in the lab?

22 A No.

23 Q Was Jamie Butler working in the lab during

1 hourly basis. There are any number of ways  
2 that you can be involved without necessarily  
3 being an assistant, having an assistantship.

4 Q Did you have a good relationship with Chris  
5 Eiland when he was a student at Auburn  
6 University?

7 A Chris and I had a very good relationship  
8 during his professional degree program and  
9 as a student assistant and during the  
10 majority of his Master's program.

11 Q Did you receive complaints about Chris  
12 Eiland from anybody?

13 A Yes.

14 Q Who did you receive complaints from?

15 A Well, I received complaints from Jamie  
16 Butler, Tracy Land, a number of student  
17 assistants, whose names I can provide to  
18 you: Brandy Brunson, Kelly Joiner, Pete  
19 Christopherson, Stuart Price. I had -- had  
20 an incident brought to my attention by Lori  
21 Nelms. I had a complaint from -- what is  
22 her name? She's our secretary in the front  
23 office -- Miranda Webb, Linda King. Perhaps

1       others. Those are the ones that come to  
2       mind right now.

3   Q    What were the complaints from Jamie Butler?

4   A    Well, I think you probably have a --

5            MR. KNIGHT: No, we've produced no  
6                documents at this point. They're  
7                due tomorrow.

8   A    Okay. Then I'll outline them for you. A  
9        number of them, beginning in August of 2003,  
10      near the end of August, began with  
11      complaints of confrontation with other  
12      students in the laboratory. Demands made by  
13      Chris about how he'd be addressed. Chris  
14      ordering Jamie that he would take -- he  
15      could take calls. He was a veterinarian.  
16      He could take diagnostic calls. And, of  
17      course, that's not necessarily true.  
18      Parasitologists are trained professionals.  
19      After a period of time and a period of time  
20      working in a laboratory and after a number  
21      of years, you might be qualified to do that,  
22      but just because you're a graduate  
23      veterinarian doesn't necessarily mean that.

1                   dealing with, is incorrect and improper.

2   Q    Does Jamie Butler receive a number of those  
3                   type calls in the lab?

4   A    The laboratory receives, yes, numerous calls  
5                   per week.

6   Q    Okay.

7   A    Do you want me to continue with these  
8                   people?

9   Q    Go ahead. Just the complaints from Jamie  
10                  Butler.

11   A    Well, I might mention to you that she did  
12                  come to me afterwards and say that -- Well,  
13                  what I had said to her is why is all this  
14                  started in August? Why don't -- Why haven't  
15                  I heard about this in the past. And her  
16                  response to me was I just didn't bother you  
17                  with it. We've had these sort of incidents  
18                  that occur even when Chris was a student  
19                  assistant. I just didn't bother you with  
20                  them. I managed them. But at this point,  
21                  on that particular day, I was called. I  
22                  was en route to visit my mother. It was  
23                  Labor Day weekend of 2003, and I was

1           actually called by Tracy Land, the other  
2           person who corroborated the confrontation  
3           that was going on in the laboratory, and the  
4           discomfort, part of the students and the  
5           staff.

6           And so, I simply asked if I could  
7           talk to Chris. And I told Chris to go home.  
8           You know, leave the laboratory, and let's  
9           just move on.

10          Q    Are you talking about the Labor Day  
11           weekend --

12          A    Right.

13          Q    -- you told him to leave the lab?

14          A    Well, I told him to go home and quit  
15           confronting students, quit confronting  
16           staff, just go home, and we'll deal with  
17           this when I get back.

18          Q    Could you be more specific about the  
19           confrontation with the students?

20          A    It was a demand to be called "Doctor  
21           Eiland." It was a challenge. And I would  
22           encourage you to talk with them if you want  
23           to know the details. Certainly, they shared

1 Jenny Spencer, who is next door. She's  
2 another person you can put on that list.  
3 Other incidents that she could account for  
4 you in detail better than me. Not any one  
5 of them certainly being that weighty, but a  
6 combination of all of them over time.

7 That and other instances that we  
8 can talk about too as you move down that  
9 list that created a situation in which daily  
10 operation of the laboratory and further  
11 advancement of Doctor Eiland in his research  
12 didn't seem possible to me in the  
13 laboratory.

14 Q Would it have been unusual or would you  
15 consider it wrong if Doctor Eiland wanted to  
16 be addressed as Doctor Eiland?

17 A I wouldn't necessarily consider it wrong. I  
18 would consider it inappropriate because he  
19 had worked in the laboratory with those  
20 students as a student assistant. And for  
21 weeks prior, months prior, he was referred  
22 to as Chris, and all of a sudden because he  
23 graduated in June, he wanted to be referred

1 graduate students, Doctor Spencer, who's the  
2 post-doc research fellow, are not required  
3 to sign in and out or to document when they  
4 arrive or when they leave.

5 0 And Chris Eiland was not required?

6 A No.

7 Q Have you told me all the complaints from  
8 Jamie Butler --

9 A Well, again --

10      0      -- that you remember?

11 A Yeah. Right. I would ask that you visit  
12 with her, talk to her. She can share more  
13 of them with you.

14 Q Well, I understand that, and I may do that.  
15 But what I'm asking you to share is the  
16 complaints that she gave to you.

17 A Well, certainly those are the ones that I  
18 remember. It's quite probable that she came  
19 to me on other instances talking about this  
20 or that, that I don't remember, that she can  
21 document.

22 0 Were these written complaints or verbal?

23 A She has written and submitted to me a

1       chronology of problems and incidents.

2   Q    But in August of 2003, did she submit  
3           written complaints to you --

4   A    No.

5   Q    -- for Chris Eiland?

6   A    No. Not at that time.

7   Q    When did she do a chronology?

8   A    Sometime during fall of 2003.

9   Q    Are you considered Jamie Butler's immediate  
10           supervisor?

11   A    Uh-huh (positive response).

12   Q    What about Tracy Land? What complaints did  
13           she make to you?

14   A    Her complaints are going to parallel and  
15           corroborate Jamie's because they're in the  
16           same laboratory. Her desk is 10 feet away.  
17           And so, the issues that face Jamie also face  
18           Tracy. I will tell you that she came to me  
19           and she told me of an incident that was  
20           quite bothersome to me about Doctor Eiland,  
21           who had accounted to her, that he had had a  
22           confrontation with a client when he was  
23           working for Parkview Animal Hospital, in

1       which he was angered by the client for one  
2       reason. She came to me specifically and  
3       told me, "I think you ought to hear about  
4       this. I'm very bothered by this." Chris  
5       told me that he had subscribed to  
6       pornographic materials and had them sent to  
7       this individual whose name he got from the  
8       medical record in the clinic. That's an  
9       incident that she brought to me very  
10      concerned, bothered by it.

11      Q      When was that?

12      A      Fall of 2003. Again, she can share with  
13       you. That's an additional detail that  
14       didn't involve Ms. Butler that Ms. Land  
15       shared with me in particular. Another issue  
16       that Jamie brought to my attention was a  
17       student -- a young lady by the name of  
18       Courtney, who was being harassed outside the  
19       College of Veterinary Medicine by Doctor  
20       Eiland after hours. She suggested that  
21       Courtney come and talk to me. Courtney came  
22       and talked to me and told me about  
23       her encounters with Doctor Eiland late at

1 night at her apartment building. My  
2 response to Courtney was "Courtney, you need  
3 to contact campus security." I said, "I  
4 can -- it's my responsibility to manage the  
5 laboratory and what goes on in the  
6 laboratory. It's not my responsibility to  
7 police what goes on outside the laboratory."  
8 Not intending to sound like I wasn't  
9 concerned about Courtney, but I said, "At  
10 this point, I would advise you to contact  
11 campus security." And, again, Courtney can  
12 share with you the details of that.

13 Q And when did Courtney come to you?

14 A After Jamie had suggested that she come to  
15 me. And, again, that would have been the  
16 fall of 2003. All these events took place  
17 between mid-August and early December, 2003.  
18 Those are the principal incidents that I  
19 recall in which they came to me. And I'm  
20 talking about Ms. Butler and Ms. Land.

21 Q Okay. Did Chris Eiland ever make a  
22 complaint to you about Jamie Butler?

23 A I don't recall.

1 Q All right. These complaints started in  
2 August of 2003. Did you go to Chris Eiland  
3 in August of 2003 --

4 A I did.

5 Q -- with these complaints?

6 A I did.

7 Q Tell me about that.

8 A I told him that his confrontation with  
9 students is going to have to stop. His  
10 disruptions in the laboratory is going to  
11 have to stop. Quit moving file cabinets,  
12 which -- quit discarding people's private  
13 belongings. Do your work and stay out of  
14 the laboratory. That was my first meeting  
15 with Chris.

16 Q Okay. Stay out of the laboratory?

17 A Well, stay out of their laboratory unless  
18 your work required that you be in there.

19 Q Was there another lab where he could have  
20 gone? I mean --

21 A We have three laboratories on that hall.

22 Q Okay. Could he have gone to any of those  
23 three as a graduate research assistant?

1 taking place.

2                   But, no, there were a number of  
3 persons who visited my office with what they  
4 would characterize as complaints about  
5 behavior.

6 Q   Were all of the complaints similar in --  
7                   I've heard confrontational and argumentative  
8                   and wanted to be called "Doctor."

9 A   I mean, I'll be happy to detail some of  
10                  them. Some of them are certainly different  
11                  than that.

12                  THE WITNESS: Do you want me to go  
13                    ahead and do that, then?

14                  MR. KNIGHT: Yeah. I mean, Kay, if  
15                    you --

16 Q   Well, let me ask you this: What did Peter  
17                  Christopherson tell you?

18 A   Peter Christopherson told me that he found  
19                  Chris Eiland rummaging through Brandy  
20                  Brunson's desk looking for notes for a class  
21                  that he apparently had failed to attend or  
22                  that she had asked him for. And he came to  
23                  me and said your graduate student should not

1 I'm not so sure that is her title, but she's  
2 one of two secretaries in the downstairs  
3 office in pathobiology, located right  
4 outside the department head's office.

5 Q Lori Nelms?

6 A Lori Nelms was a graduate students of Joseph  
7 Janicki at the time that all this was going  
8 on.

9 Q Is she a student now?

10 A She's a professional student, veterinary  
11 student, yes.

12 Q Stuart Price?

13 A He's a faculty member in the College of  
14 Veterinary Medicine.

15 Q Kelly Joiner?

16 A She's a graduate student and resident in the  
17 Department of Pathobiology.

18 Q Brandy Brunson?

19 A She's also a graduate student and a resident  
20 in the Department of Pathobiology.

21 Q Tracy Land?

22 A She's another of my research assistants that  
23 occupied the desk in close proximity to

1 Jamie's.

2 Q All right. After you had your initial talk  
3 with Doctor Eiland in 2003, August of 2003,  
4 when was the next time you talked with him  
5 about complaints?

6 A Perhaps three weeks later, and this related  
7 to the Brandy Brunson, Pete Christopherson  
8 incident and the course that they were  
9 taking in advanced endocrinology.

10 Q And what did Doctor Eiland tell you?

11 A Well, it was more what I told him. I don't  
12 recall the details of how he responded. I  
13 think he denied certain of the accusations  
14 that they had made.

15 My response or my instructions  
16 with him was to go to class. He wasn't  
17 going to class. Go to class and take your  
18 own notes, stay out of other people's desks,  
19 don't confront those people in their work  
20 places, and ask them why they didn't give  
21 you the notes to the class. Among, perhaps,  
22 a couple of other things, but, again, it was  
23 just another sit down and stop doing this.

1       This is creating too many problems here at  
2       the College of Veterinary Medicine. It's  
3       creating an environment that's not conducive  
4       to teaching research, what we do on a daily  
5       basis. So, just stop doing it. And his  
6       response, as I recall -- Doctor Eiland's  
7       response -- was that, these are accusations,  
8       it was their opinions, and I can't believe  
9       you believe this, or something to that  
10       extent.

11      Q      All right. Did you have an occasion to talk  
12       with Doctor Eiland after this discussion  
13       about going through the desk regarding  
14       complaints?

15      A      Yes.

16      Q      Okay. When was the next time?

17      A      The next time was after Kelly Joiner came to  
18       me and said that Doctor Eiland confronted me  
19       on the front steps. He frightened me. He  
20       wanted to ask me about the incident of going  
21       through Brandy's desk. As I recall, she  
22       said, "I don't want to talk to you. If you  
23       want to talk to me, let's go talk to Doctor

1                   came to me -- And this was another incident  
2                   in which they're in advanced endocrinology,  
3                   and Doctor Eiland had apparently fallen  
4                   asleep in class and remained asleep after  
5                   the class had left and was sitting there.  
6                   Doctor Sartin had come to me and said, "Are  
7                   you aware of Doctor Eiland not coming to  
8                   class and sleeping through class?" And had  
9                   mentioned to me that he had continued to  
10                  sleep well after the class was over and  
11                  actually had brought other faculty members  
12                  to the room and said, "Look at that." And  
13                  we've been out of there for 15 minutes.

14                   So, Brandy shared that with me,  
15                  and then she proceeded to share the fact  
16                  that he had asked for notes.

17           Q       Did you discuss complaints -- not  
18                  necessarily -- I'm not talking about the  
19                  people making complaints. But after the  
20                  complaints were made, did you discuss these  
21                  complaints with anyone else other than Chris  
22                  Eiland?

23           A       Not that I recall.

1 Q Okay. Is there a reason why you didn't?

2 A Well, it's my responsibility as his adviser  
3 to -- to restore any sort of order or to  
4 request that this behavior stops. That's  
5 the role of the major professor. That's  
6 what I implied when I said it's not just  
7 academics. It's other aspects of program  
8 and training too. It's my responsibility.

9 Q What was the last complaint that you heard  
10 against Doctor Eiland?

11 A Well, there were several more. The last one  
12 that I heard was from Stuart Price, who  
13 approached me in the hallway and said  
14 that --

15 THE WITNESS: Should I go ahead and  
16 discuss this?

17 MR. KNIGHT: Yeah. Just go into it.

18 A He approach me in the hall, and he said, "Is  
19 Chris okay?" And I said, "Why do you say  
20 that." He said, "Well, I was leaving work  
21 at 11:30 or 12:00 on a Friday night or  
22 Saturday night." I can't remember exactly  
23 what night it was. And he said, "Chris

8           And my response to Stuart was, "Stuart, I  
9           have no idea what Doctor Eiland was doing.'

10 Q Did you talk with Doctor Eiland about that?

11 A I don't believe I ever mentioned that  
12 incident. I may have. I may have said that  
13 Doctor Price -- but I don't recall.

14 Q And who is Stuart Price?

15 A He's a professor, associate professor, in  
16 the Department of Pathobiology.

17 Q Did you have any discussion with Doctor  
18 Wolfe regarding Doctor Eiland and these  
19 complaints?

20 A T did.

31 0 Tell me about that.

22 A Well, after and -- and there were several  
23 others that you've not asked me about.

15 Q And what did you do?

16 A Well, ultimately -- and there are actually a  
17 couple of other incidents that occurred  
18 after that.

19 THE WITNESS: Should I share them?

20 MR. KNIGHT: Yeah.

21 Q Well, I haven't asked you that. I wanted to  
22 know -- Well, first of all, when did you  
23 have this conversation with Doctor Wolfe?

1 A Probably November of 2003.

2 Q All right. And Doctor Wolfe said, "You have  
3 to do something about that." And my  
4 question was: What did you do?

5 A Well, I visited with Chris again --

6 Q Okay.

7 A -- and told him that these problems,  
8 incidents, have to stop. I'm getting  
9 complaints outside the laboratory. Now,  
10 it's not just related to persons in and  
11 around the parasitology division, the  
12 parasitology laboratory. Now, it relates to  
13 anatomical pathologists, microbiologists  
14 confronting me in the hallway, or graduate  
15 students in physiology upstairs coming to me  
16 and relating incidents that have happened.  
17 This has got to stop. Concentrate on your  
18 program. Forget about everyone else, and  
19 get on with your program.

20 Q Now, when you said to Chris Eiland, "This  
21 has to stop," did you specifically lay out  
22 all of the complaints?

23 A Well, each time that I talked with him,

1       yeah, I summarized what the persons had told  
2       me and what I knew.

3       Q      And what was his response?

4       A      In some instances, denial; in some  
5       instances, just sort of shrugged them off as  
6       being insignificant and not of any magnitude  
7       to worry about. Never, as I recall, an  
8       admission of doing them.

9       Q      What did you think was going on?

10      A      Well, I didn't know. I didn't know. I  
11       remember I asked Chris at one time, I said,  
12       "Is there something I can help you with?  
13       Are you having problems that I'm not aware  
14       of?" That's all I said. I had no idea. As  
15       I had mentioned to you, in prior years, I  
16       apparently wasn't privy to all of these  
17       little incidents that were happening. Jamie  
18       later told me, as I mentioned to you, that  
19       they happened periodically, but were just  
20       not brought to my attention.

21      Q      Does it seem strange to you that someone  
22       with those traits or behaviors that you  
23       described would be elected president of the

1 matter what he wanted to do. And I told him  
2 I would be happy to do that.

3 Q Including getting him another major  
4 professor?

5 A Well, it it's not my responsibility to get  
6 him another major professor. I resigned. I  
7 certainly would be willing to support him in  
8 the form of a recommendation to anyone. But  
9 it's not my responsibility to find him a  
10 major professor.

11 Q Who is Gregory Skipper?

12 A I don't know that name.

13 Q Did you tell Doctor Eiland that he would  
14 make a great parasitologist, just not at  
15 Auburn University?

16 A I don't remember that. It doesn't sound  
17 like something I would say. I don't deny  
18 saying it, but I don't remember saying it.  
19 I just repeat it. It doesn't sound like  
20 something I would say to a student.

21 Q Did you also tell Doctor Eiland to clean out  
22 his office and turn in his keys for the lab?

23 MR. KNIGHT: Object to the form. Go

ahead and answer.

2 Q You can still answer.

3 A The -- It's customary for students who are  
4 no longer working in your laboratory to turn  
5 in their keys. It's a commonplace request.

6 Q Did you receive a call, telephone call, from  
7 a Doctor Mark Janderlich?

8 A I did.

9 Q Do you remember about when that telephone  
10 conversation took place?

11 A Maybe -- You know, I really can't tell you.  
12 It was while I was entering department head.  
13 So, it probably would have been either  
14 summer of 2004 or summer of 2005. I don't  
15 remember exactly when.

16 Q What was the purpose of the call?

17 A Doctor Janderlich is a former student of  
18 mine. And he said, "I'm thinking of hiring  
19 Chris Eiland. What can you tell me about  
20 him?" I said, "Well, Mark, I can't comment  
21 on Chris's clinical skills. I'll tell you  
22 that he did a fine job for his Master's  
23 thesis. We had some personnel problems in

1 are posted guidelines, or whatever you call  
2 them, whatever they call them there on the  
3 graduate school's web site. Frankly, I have  
4 not seen that document. I have not seen  
5 that. I have had no cause to look at it  
6 over the years. And when it was shown to  
7 me, that was the first time I saw it.

8 Q Was Doctor Eiland progressing toward his  
9 degree according to plan other than these  
10 problems?

11 A Which degree?

12 Q The PhD.

13 A Well, it was very early. I mean, his course  
14 work only began August 15th. And so,  
15 really, no progress had been made to speak  
16 of. So, to qualify his progression, I  
17 think, would be premature at that point.

18 Q Did you ever have discussions with anyone  
19 about his progress?

20 A I don't recall. Perhaps I don't understand  
21 the question. Discussion with whom in  
22 particular and about what?

23 Q Anybody in particular about his progress in

1                   the PhD program.

2   A   Not that I'm aware of.

3   Q   If Doctor Eiland had been accepted to  
4                   another department, would he have been able  
5                   to continue in his main field of interest,  
6                   which was parasitology?

7   A   I believe so. I believe that there are  
8                   opportunities at Auburn University. There  
9                   are numerous examples of -- I have a student  
10                  that I was on her committee, and she was in  
11                  soils and agronomy, but she's working on  
12                  parasites. And so there's a lot of  
13                  interaction across campus. And as I  
14                  mentioned, there's Doctor Sundermann. You  
15                  know, there's Doctor Dillon. There are  
16                  clinicians who certainly -- internists who  
17                  have skills in his area. My opinion is  
18                  that, yes, there's opportunity.

19   Q   Did Doctor Wolfe tell you to either get rid  
20                  of Doctor Eiland or he would?

21   A   I don't know that those are his exact words,  
22                  but it was very clear to me that that's what  
23                  he meant. Now, I don't -- I'd prefer not to

1 view it as "get rid of Doctor Eiland." His  
2 words -- And Doctor Wolfe is not the kind of  
3 individual that would have used that kind of  
4 language. He would have more -- he would  
5 more than likely have said something like,  
6 "Doctor Blagburn, please solve this problem.  
7 And this is obviously not going to work in  
8 the department. So, you as the adviser are  
9 the person to do something about it." And  
10 my decision, then, was to resign.

11 Q Did you go back and have a discussion with  
12 Doctor Wolfe after you made that decision?

13 A I don't recall that I did, other than  
14 routing my letter through him would have  
15 been customary for me since a source of  
16 support was in our department to route my  
17 resignation letter to the department head.

18 Q Did you try to get Doctor Eiland's  
19 statistics incomplete grade changed to a  
20 withdrawal?

21 A I did make a couple of telephone calls to  
22 Professor Billor -- is that it -- never  
23 reached her. I got her voice mail. She

1 called me back a couple of times, and we  
2 never spoke. And then it occurred to me,  
3 probably after our fourth attempt to talk,  
4 that perhaps it was inappropriate for one  
5 faculty member to try to encourage or  
6 discuss another faculty member's grade  
7 change policies. So, I made no attempt  
8 after that.

9 Q Who is the point of contact for all  
10 departments in the biomedical sciences  
11 program?

12 A At that time it was Joseph Janicki. His  
13 title was associate dean of research and  
14 graduate studies

15 Q Was Doctor Eiland dismissed from the  
16 Department of Pathobiology?

17 A No. We have no authority to dismiss anyone.  
18 His support was in my laboratory. When I  
19 resigned, of course, it's not customary to  
20 continue to support a graduate student with  
21 your resources if that graduate student then  
22 moves to a different laboratory. It happens  
23 all the time. They simply procure support

1       students, whatever. It would simply be a  
2       letter and a change in that plan of study  
3       naming a new professor as a major professor.

4       And then that would become a matter of  
5       record, and it would go on file in Janicki's  
6       office and with the graduate school.

7   Q    Would he have had to reapply to the graduate  
8       program?

9   A    He remained an active graduate student in  
10      good standing, and my resignation had  
11      absolutely no impact or effect on his status  
12      as a graduate student, either in the program  
13      in biomedical sciences or at Auburn  
14      University.

15   Q    Did you contact anyone at the Alabama  
16      Wellness Committee in December of 2003?

17   A    No, ma'am, I did not.

18   Q    Do you know anyone who did?

19   A    I do.

20   Q    Who was that?

21   A    It was Doctor Charles Hendrix.

22   Q    Do you have any knowledge of Doctor Eiland  
23      ever being diagnosed with excessive

1 Q What department was Doctor Sundermann in?

2 A She's in biological sciences.

3 Q Okay. Thank you.

4

5 (Deposition concluded at  
6 approximately 4:12 p.m.)

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8 FURTHER DEPONENT SAITH NOT

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12 R E P O R T E R ' S C E R T I F I C A T E

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14 STATE OF ALABAMA)

15 ELMORE COUNTY)

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17 I, Jeana S. Boggs, Certified Professional  
18 Reporter and Notary Public in and for the State of  
19 Alabama at Large, do hereby certify on Monday, June  
20 12, 2006, that pursuant to notice and stipulation on  
21 behalf of the Plaintiff, I reported the deposition  
22 of BYRON L. BLAGBURN, MS, PhD, who was first duly  
23 sworn by me to speak the truth, the whole truth, and

1 nothing but the truth, in the matter of CHRISTOPHER  
2 EILAND, DVM, MS, Plaintiff, versus DR. BYRON L.  
3 BLAGBURN, individually and in his official capacity,  
4 DR. CHARLES HENDRIX, individually and in his  
5 official capacity, DR. JOSEPH JANICKI, individually  
6 and in his official capacity, DR. STEPHEN McFARLAND,  
7 individually and in his official capacity, DR. ED  
8 RICHARDSON, in his official capacity as President of  
9 Auburn University, and DR. LAUREN WOLFE,  
10 individually and in his official capacity,  
11 Defendants, Civil Action No. CV-459-VPM, now pending  
12 in the United States District Court for the Middle  
13 District, Eastern Division of Alabama; that the  
14 foregoing colloquies, statements, questions and  
15 answers thereto were reduced to 122 typewritten  
16 pages under my direction and supervision; that the  
17 deposition is a true and accurate transcription of  
18 the testimony/evidence of the examination of said  
19 witness by counsel for the parties set out herein;  
20 that the reading and signing of said deposition was  
21 not waived by witness and counsel for the parties.

22 I further certify that I am neither of  
23 relative, employee, attorney or counsel of any of

1 the parties, nor am I a relative or employee of such  
2 attorney or counsel, nor am I financially interested  
3 in the results thereof. All rates charged are usual  
4 and customary.

5 This the 26th day of June, 2006.

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Jeana S. Boggs  
Certified Court Reporter and  
Notary Public  
Commission expires: 8/14/2006